

Charlotte Observer, November 30, 2007

Editorial: Fix federal bill

N.C. predatory lending law is a model -- for a reason

The 1999 N.C. General Assembly produced an outstanding law on predatory mortgage lending that might have helped the nation avoid its current credit crisis had similar legislation been in place nationwide.

Now a congressional effort to adopt a federal predatory lending law would provide some of the same protections, but it doesn't go far enough. The U.S. Senate should change a House-passed law to more closely model state law in North Carolina.

The N.C. law requires lenders to make pretty full disclosure to potential borrowers before loan papers are signed. And N.C. common law allows borrowers to pursue unscrupulous lenders or note holders in state court -- even if the lenders have sold the loan to other interests.

The proposed federal law, introduced by Rep. Brad Miller, D-N.C. and cosponsored by Rep. Mel Watt, D-N.C., has many good points. It would expand protections to millions of consumers in other states by requiring that potential borrowers receive unbiased counseling before loans are made. It would help potential borrowers avoid taking loans they can't afford to repay, getting stuck with penalties that discourage refinancing, and being locked into mandatory arbitration instead of being able to sue in court.

That's an improvement for consumers in many states. But the penalties for holders of predatory

loans are limited. Consumer advocates say that borrowers would have difficulty pursuing claims against note holders. And the bill preempts homeowners from being able to pursue their claims in state courts for fraud, deception or even certain civil rights issues. This bill needs more remedies for borrowers who get stuck with unaffordable or unfair loans.

"The bill insulates those that hold the loans, the very parties that funded these abusive products and created a market for predatory loans," a coalition of consumer groups said in a letter to Congress. The limited protections in the bill, they went on, "provide little or no incentive for the market to change."

The House bill, which amends the federal Truth in Lending Act, passed by a 297-127 vote in mid-November and now is in the Senate. This would be a good time for North Carolina's leadership -- especially Gov. Mike Easley and Attorney General Roy Cooper -- to speak up for incorporating more of this state's model lending law provisions in the proposed law that would extend protection to millions of consumers.

Before it passes its own version of the House bill, the Senate should make sure there's a right of every borrower to file for relief from predatory or abusive loans in state court -- the courts closest to where they live, work and borrow. It's a matter of fundamental fairness.